THE HON'BLE SRI JUSTICE V.V.S.RAO

W.P.Nos.24949 and 24950 of 2004

-

19.8.2005

Between:

M/s. M.K. Exports, Registered Office at 18-10-11, Marellavari Street, Bhimavaram, West Godavari District. Rep. by its Partner M. Seshavataram, S/o. Sri M.S.N. Gupta, R/o. Bhimavaram, West Godavari District.

..... PETITIONER
(in both writ petitions)

AND

1 Government of Andhra Pradesh, Rep. by its Joint Director of Marketing, Vijayawada, Krishna District.
2 The Agricultural Marketing Committee, Rep. by its Secretary, Bhimararam, West Godavari District.

.....RESPONDENTS
(in both writ petitions)

COMMON ORDER:

In both the writ petitions, M/s.M.K.Exports, is the petitioner. They were served with the assessment orders dated 15.3.2004 under Section 12B of A.P. (Agricultural produce & Livestock) Markets Act, 1966 (the Act, for brevity) passed by the second respondent. Aggrieved by the same, they preferred appeal under Section 12E of the Act before the Joint Director of Marketing, Vijayawada, the first respondent herein, on 14.5.2004. By impugned order dated 04.12.2004, the appeal was rejected on the grounds that it was not filed within 30 days from the date of assessment order and that the petitioner did not enclose receipt evidencing due payment of the assessed market fee to the second respondent.

In these writ petitions, the only ground urged is that as the petitioner was not liable to pay any market fee for the year 2001-2002, the amount as required under subsection (2) of Section 12E of the Act was not paid. It is also contended that the appellate authority did not give any reasons before rejecting the appeal.

Though the interlocutory applications are listed today, the matter is being disposed of by the common order, after hearing the learned Counsel for the petitioner, learned Standing Counsel for Market Committee and the learned Assistant Government Pleader.

It is no doubt true that any trader objecting to assessment order has to file an appeal

before the Regional Joint Director within 30 days duly paying market fee in accordance with the assessment order. The petitioner did not comply with both these requirements. However, there is a dispute as to whether the petitioner's business attracts levy of market fee in view of the allegation that the petitioner's shop is allegedly situated outside the jurisdiction of the second respondent. When there is such a factual dispute, it would not be proper for this Court to decide the issue in this petition.

Liberty is, therefore, given to the petitioner to approach the first respondent within a period of one week from today and represent the appeal along with an application to codone the delay. As and when such appeal is preferred along with delay condonation application, it is for the appellate authority to consider the application for condoning the delay and take up the appeal thereafter subject to the petitioner complying with the provisions under subsection (2) of Section 12E of the Act. To enable the petitioner to obtain appropriate orders from the first respondent, the second respondent is directed not to take any coercive steps for a period of two weeks.

The writ petitions are, accordingly, disposed of. No costs.

_____

(**V.V.S.RAO,J**)

August 19, 2005.

YS